

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSHUA OSMUN KENNEDY,

Defendant.

Cause No. CR08-354RAJ

ORDER DENYING  
DEFENDANT'S MOTION TO  
TERMINATE SUPERVISED  
RELEASE

THIS MATTER comes before the Court on defendant's motion to terminate supervised release. The essence of defendant's argument is that because he has completed his prison sentence, paid restitution to the victims, lost his job, and successfully completed treatment, his supervised release should be terminated.

In support of defendant's motion, he submitted a letter from his treatment provider, Mr. Robert Hirsch, representing that he has successfully completed treatment (Dkt. #222). Mr. Hirsch concludes that Mr. Kennedy poses "absolutely no public safety risk," and that he supports his efforts to be released from his probation requirement (Dkt. #222, p. 5).

The Government opposes this motion pointing first to the defendant's two earlier violations of supervised release. In addition, the government minimizes the extent of the defendant's progress on supervised release and notes that while he has made progress, he has failed to demonstrate exceptionally good behavior to justify early termination of his 15-year term of supervised release.

1 Title 18 U.S.C. Section 3583 (e)(1) states that: "The court may, after considering  
2 the factors set forth in Section 3553 (a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5),  
3 (a)(6) and (a)(7), terminate a term of supervised release and discharge the person released  
4 at any time after the expiration of one year of supervised release...if it is satisfied that  
5 such action is warranted by the conduct of the person released and in the interest of  
6 justice."

7 In considering this statute the Court has considered each of the applicable sections  
8 as applied to the defendant. While the Court believes that the defendant has engaged in  
9 laudable efforts in fulfilling his responsibilities of supervised release, notably the  
10 payment of a large amount of restitution and completion of treatment, these efforts are  
11 exactly what the court would expect of any individual on supervised release...compliance  
12 with the conditions as ordered by the court.

13 What is of significant concern to the court is the nature of the offense of  
14 conviction which involved use of a computer on numerous occasions to view child  
15 pornography. Possession of child pornography is a serious crime. While the defendant  
16 has successfully completed his treatment, the court is underwhelmed by the fact that the  
17 defendant has been on supervised release for only a limited period of time, *i.e.*, three  
18 years. This limited amount of performance on supervised release combined with  
19 defendant's prior history of bond violations and supervised release violations clearly  
20 reflect the need for continued protection of the public.

21 This Court does not foreclose the opportunity for the defendant to renew this  
22 motion sometime in the future assuming he demonstrates continued success on  
23 supervised release. But, now is not that time and the Court finds that the defendant has at  
best demonstrated admirable success on supervised release, but not the duration of  
success to fit in the range of exceptionally good behavior to warrant early termination.

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1 For these reasons, the defendant's motion to terminate supervised release  
2 (Dkt. #220) is DENIED.

3 DATED this 8th day of January, 2016.

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6 The Honorable Richard A. Jones  
7 United States District Judge  
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